

**FY'03 MIDYEAR REVIEW
OF THE
STATE OF LOUISIANA'S ADMINISTRATION
OF THE
NPDES PERMIT PROGRAM**

EXECUTIVE SUMMARY

The National Pollutant Discharge Elimination System (NPDES) program was assumed by the Louisiana Department of Environmental Quality (LDEQ) on 08/27/1996, and is administered under the Louisiana Pollutant Discharge Elimination System (LPDES). As cited in the Memorandum of Agreement (MOA) executed between both parties effective 08/27/1996 and modified on 08/02/2000, EPA is responsible for assuring that Louisiana's discharge permitting program is consistent with all Federal regulations and laws and that it adheres to the requirements agreed upon in the MOA. EPA is required to conduct, at least semiannually, a detailed audit of the State's program and to provide a copy of the report to the State. This report will serve to satisfy these requirements for the State of Louisiana Midyear 2003.

The following major findings are listed for the midyear 2003 review of the State of Louisiana's administration of the NPDES permitting program. A detailed discussion of the findings may be found in the report.

STRENGTHS

LDEQ has committed to meeting the national goals for backlog reduction for 2004 (majors) and 2005 (minors). LDEQ updated the current Backlog Reduction Strategy to include backlog reduction as-well-as information as to how the State intends to attain self-sufficiency in drafting and issuing the requisite number of permits on a yearly basis to maintain an effective program. LDEQ is calling the document a Permit Issuance Strategy and sent the strategy to EPA on April 30, 2003.

With regard to LPDES permitting, LDEQ has re-organized into two sections (basically no longer multi-media). The Industrial Permits Section has some air permits, but one unit within it is totally water, and the Minor Industrial and Municipal Section incorporates general permits, some minor industrial permits, pretreatment, municipal permits, etc.

LDEQ has dedicated two technical advisor positions to the Industrial and Municipal permit-writers group. The advisors are to assist with permitting issues and help to expedite the permit review and issuance process. Both advisors are technically sound and have had previous experience with the NPDES program and EPA. The advisors also assist in staff training.

LDEQ committed to the permit issuance numbers as outlined in the EPA Performance Measures Document dated 02/14/03.

EPA acknowledges that LDEQ has made a commitment to meet with EPA on a quarterly basis to review permit issuance activities to keep on track, and if necessary, any needed measures to meet objectives.

CONCERNS

Long-term effective administration of the LPDES permitting program is of major concern to EPA. LDEQ did, however, issue enough major LPDES permits (53) in FY02 for program maintenance (50) once the backlog has been eliminated. LDEQ issuance of 121 individual minor permits was well below the 300 individual minor permits that would be needed for program maintenance once the backlog had been eliminated. For the time period beginning 7/1/02 - 12/31/02, LDEQ issued 17 individual major permits and 58 individual minor permits. This rate of permit issuance is not sufficient to maintain the program.

The Electronic Document Management System (EDMS) remains problematic for public retrieval and review of LPDES permits & supporting materials. The database contains voluminous amounts of information and the poor indexing of materials and files containing misfiled information makes the system difficult for the public to use.

The Pretreatment Program audit reports to be completed for audits physically conducted during this period continue to take much longer to finalize than is desirable. The desired nominal time frame from the date the physical audit is completed until the report is issued is 45 days.

RECOMMENDATIONS/REQUESTED ACTIONS

LDEQ should develop a comprehensive quality control/assurance plan that will ensure that the information in PCS is timely, accurate, and complete, and in accordance with EPA national policy statements related to the national data system. *(Addendum: On June 18, 2003, LDEQ submitted a draft Standard Operating Procedures for quality assurance and quality control for entering and maintaining reliable and consistent data in the Permit Compliance System (PCS). EPA is reviewing the document).*

For permit issuance data, LDEQ should commit to input all appropriate application/permit data older than 60 days into PCS for major and minor facilities along with all appropriate PCS data entries by December 31, 2003. Thereafter, all permit/application data should continue to be entered into PCS no later than 30 days from receipt of data information.

LDEQ should provide technical and administrative assistance to the public on obtaining and interpreting the information found in the imaging system by providing written procedures and technical term descriptions to citizens and environmental groups, and any other interested parties.

LDEQ's technical staff should be made available to assist the public in understanding technical terms, descriptions, diagrams, permit limits, and other information available to the public. Additionally, any Internet site created by LDEQ should also provide access information for the public. *(Addendum: On June 24, 2003, LDEQ submitted a draft plan to EPA indicating how it will improve public access to LDEQ files. EPA is reviewing the document).*

EPA requests that LDEQ provide copies of the results of the dioxin testing on the eleven facilities discharging to the Calcasieu to EPA on or before September 15, 2003.

I. INTRODUCTION:

In accordance with Section I.B of the Memorandum of Agreement (MOA) between Louisiana and the U.S. Environmental Protection Agency (U.S. EPA), representatives of the Water Quality Protection Division of the U.S. EPA Region 6, conducted an end-of-year program review of Louisiana Department of Environmental Quality (LDEQ) LPDES permitting and administrative programs March 13-14, 2003. Representatives from the U.S. EPA Region 6 included Gloria Vaughn, Brian Mueller, of the Oversight Team of the National Pollution Discharge Elimination System (NPDES) Permit Branch; LaGayla Bradley and Dorothy Brown of the Customer Service Branch; and Arlene Gaines of the Assistance Branch. Attendees of LDEQ's Permits Division, Office of Environmental Services included, Linda Levy, Assistant Secretary, Michael Vince, Administrator, Tom Killeen, Jesse Chang, and Jim Delahoussaye.

Section I.B. of the Memorandum of Agreement between the U.S. EPA Region 6 and LDEQ dated August 27, 1996, cites that both agencies in a partnership relationship are to ensure the success of administering the LPDES program. Meetings at least semi-annually are to be conducted to discuss and review operating procedures, problems, and/or concerns involved in administering the program. This report fulfills the requirement of the agreement. Below is a description of topics discussed during the end-of-year program review.

II. REPORT SUMMARY:

A. Program Strengths:

LDEQ has committed to meeting the national goals for backlog reduction for 2004 (majors) and 2005 (minors). LDEQ plans to update the current Backlog Reduction Strategy to include backlog reduction as-well-as information as to how the states intends to attain self-sufficiency in drafting and issuing the requisite number of permits on a yearly basis to maintain an effective program. LDEQ is calling the document a Permit Issuance Strategy and will send the strategy to EPA by April 30, 2003.

B. Program Concern(s):

Effective administration of the LPDES permitting program remains of major concern to EPA. LDEQ did, however, issue enough major LPDES permits (53) in FY02 for program maintenance (50) once the backlog has been eliminated. LDEQ issuance of 121 individual minor permits is well below the 300 individual minor permits that would be needed for program maintenance once the backlog had been eliminated. As of December 2002, LDEQ had a major individual permit backlog of 38% and 49% for minor individual permits. For the time period beginning 7/1/02 - 12/31-02, LDEQ issued 17 individual major permits and 58 individual minor permits. This rate of permit issuance is not sufficient to maintain the program.

LDEQ's minor individual permit backlog of 49% is due, in part, to a purging of facilities no longer in existence or ever actually constructed from PCS. A contract was entered into with Providence Engineering to evaluate the PCS database to allow LDEQ to revise the minor backlog numbers if necessary. Providence Engineering, working with LDEQ staff, conducted a record search, contacted facilities, etc., to determine if the facility was still in operation or constructed. Of the 2955 facilities reviewed in the initial listing given to Providence by LDEQ, 1314 have been inactivated.

To increase its permit issuance rate, LDEQ requested the use of \$1.47 million in EPA In-Kind Assistance support through the Performance Partnership Grant to hire a contractor to issue 60 major and 220 minors permits during LDEQ's fiscal years 2003 and 2004. SAIC was selected as the contractor and the in-kind assistance began in October 2002. A proposed milestone schedule submitted by the contractor indicates that 23 major and 98 minor permits will be drafted and submitted to LDEQ to be finalized by June 2003.

C. Requested Information and Action(s):

By September 1, 2003, LDEQ has committed to submitting to EPA for review and comment drafts of revisions to all program authorization documents. These revisions should include all program changes implemented since the date of program approval, including any changes to the State's legal authorities including providing clarification on the actual number of FTE's devoted to the pretreatment program.

LDEQ should develop a comprehensive quality control/assurance plan that will ensure that the information in PCS is timely, accurate, and complete, and in accordance with EPA national policy statements related to the national data system.

For permit issuance data, LDEQ should commit to input all appropriate application/permit data older than 60 days into PCS for major and minor facilities and by the end of the 2003 calendar year input all appropriate PCS data entry. Thereafter, all permit/application data should continue to be entered into PCS no later than 30 days from receipt of data information.

LDEQ should provide technical and administrative assistance to the public on obtaining and interpreting the information found in the imaging system by providing written procedures and

technical term descriptions to citizens and environmental groups, and any other interested parties. LDEQ's technical staff should be made available to assist the public in understanding technical terms, descriptions, diagrams, permit limits, and other information available to the public. Additionally, any Internet site created by LDEQ should also provide access information for the public.

EPA requests that LDEQ provide copies of the results of the dioxin testing on the eleven facilities discharging to the Calcasieu to EPA within 30 days of receipt of this correspondence.

III. PARTNERSHIP

A. Previous Program Reviews

Representatives of the Water Quality Protection Division conducted a fiscal year 2001, end-of-year program review of the LPDES permitting and administration programs, September 27-28, 2001 and October 3-4, 2001. A midyear review of the program was not conducted during fiscal year 2002.

B. Cooperation and Coordination

Sections I (General) and II (Program Responsibilities) of the MOA outline the roles, responsibilities, and commitments of each agency to assure the success of administering the LPDES permitting and administrative programs. The Agency acknowledges LDEQ's staff in their expeditious response, whenever possible, in addressing and resolving some of the concerns and clarifications to preliminary draft permits (general and individuals). However, for some cases, regarding more complex permitting issues, permit review and issuance processes were delayed. EPA and LDEQ believe that placing more emphasis and focus on solutions will expedite the process for resolution. Both agencies continue to coordinate in resolving the outstanding permitting issues (i.e. impaired water bodies, ammonia toxicity). In addition, both agencies conduct conference calls to further discuss complex permitting issues, and resolutions, hoping to expedite the permit review process and ultimately permit issuance. A permit review escalation process is being developed by EPA and LDEQ to expedite resolutions of permitting issues.

C. Performance Partnership Agreement (PPG and 106 Grant Commitments)

LDEQ has also requested the use of \$1.4 million in In-Kind Assistance support through the Performance Partnership Grant to hire contractors to issue additional major and minor permits. SAIC was selected as the contractor and work under the in-kind assistance grant began in November 2002. Personnel from LDEQ has provided LDEQ permit writer training to SAIC staff and submitted permit packages to SAIC. It is expected that SAIC will draft 65 major and 220 minor permits for LDEQ during calendar years 2003 and 2004.

D. MOA Review and Revisions

The current MOA between EPA and LDEQ, approved and signed August 27, 1996, was amended June 28, 2000, due to litigation of a Court Order dated October 1999. The amended MOA was signed by the Secretary of LDEQ March 31, 2000. The addendum was published in the Federal Register August 8, 2000, and in the local news papers of Louisiana August 26, 2000. The addendum to the MOA addresses permit issuance for point source discharges into impaired water bodies that have established and approved TMDLs.

By September 1, 2003, LDEQ has committed to submitting to EPA for review and comment drafts of revisions to all program authorization documents. These revisions should include all program changes implemented since the date of program approval, including any changes to the State's legal authorities including providing clarification on the actual number of FTE's devoted to the pretreatment program. Further, LDEQ should ensure that adequate resources are available for this program.

E. Meetings Held During Fiscal Year 2002

EPA and LDEQ conducted informal meetings and conference calls in addition to an annual LPDES program review meeting to discuss specific permitting-related issues and how to reduce the permits backlog. Region 6 also conducted an LPDES program review during the week of May 13th, 2002 in response to a petition from Tulane Environmental Law Clinic requesting that EPA withdraw the LPDES program from the state. Additionally, there were several meetings between EPA managers and LDEQ managers to discuss the elimination of the backlog of LPDES permits.

EPA and LDEQ has conducted conference calls (on an as-needed basis) to discuss complex permitting issues since the third quarter of FY'2000. Both agencies will continue to conduct these calls and other informal meetings to increase permit issuance productivity and to address TMDLs implementation and permit issuance backlog.

IV. LEGAL AUTHORITY

A Changes in Legal Authority

As of midyear 2003, there have been no changes in LDEQ's legal authority.

B. Statutory Changes -

As of midyear 2003, there have been no changes in LDEQ's statutes.

C. Rulemaking and/or Revisions

Listed below are rule-makings and/or revisions for FY03 that pertains to the LPDES permitting and administrative programs:

LAC 33:I.705: Civil Penalty Revisions

LAC 33:IX, 1105, 1111, 1113, 1115, 1117, 1121, and 1123: Revisions to Surface Water Quality Standards

LAC 33:IX.2301, 2531, and 2533: LPDES Incorporation by Reference update:

LAC 33:I. Subpart 3: Laboratory Accreditation Amendments

D. List of federal rules to be adopted by LDEQ and schedule.

In accordance with Section I.C. of the MOA between EPA and Louisiana, LDEQ is to implement the LPDES permitting program in accordance with the Clean Water Act and other applicable federally promulgated regulations. LDEQ has the responsibility to establish LPDES program priority with consideration of EPA Region 6 and National NPDES policies, goals, and objectives.

As required by federal regulations cited at 40 CFR § 123.62 (e), and the administration of the LPDES permitting program, state agency within one year must adopt promulgated federal regulations and within two (2) years must revise its statutes. LDEQ adopts specific dated versions of Federal regulations by reference. It takes Louisiana at least 4 months to promulgate a regulation that is identical to a Federal regulations and because of possible amendments to existing guideline, test procedures, etc., LDEQ adopts the yearly updated version of the CFR, thereby, placing all the state adopted guidelines and test procedures in one document. LDEQ acknowledges that by following this procedure that not all promulgated federal effluent guidelines or test procedures will be adopted within one year. The CFR is updated July 1st of each year and the published documents are not available until the end of the year in which they are updated. Due to the fact that Louisiana waits until the CFR is available to the public to adopt the CFR by reference, more than 18 months may have passed after the action was published in the Federal Register.

V. STAFFING LEVELS

With regards to LPDES permitting, LDEQ has re-organized into two groups dedicated to the LPDES program. This is a shift away from the multi-media concept where LPDES permitting managers were also responsible for air and RCRA permits. Of the two groups, one group is responsible for major industrial permits (has some air permits) and the other group is responsible for major municipal permits, general permits, some minor industrial permits, pre-treatment, etc. Additionally, LDEQ has dedicated two technical advisor positions to the Industrial and Municipal permit-writers group. The advisors are to assist with permitting issues and help to expedite the permit review and issuance process. Both advisors are technically sound and have had previous experience with the NPDES program and EPA. EPA feels that this is a positive step toward increased productivity and effectiveness. LDEQ, at a future date, may wish to consider segregating the air permits from the water permits.

VI. PROGRAM MODIFICATIONS

No program modifications were noted during the March 13-14, 2003 program audit.

VII. INDIVIDUAL PERMIT ISSUANCE

A. Productivity

LDEQ issued 17 major and 58 minor permits from 7/01/02-12/31/02. For calendar year 2003 LDEQ has made a commitment to issue 35 major permits and provide coverage for 300 minor facilities.

B. Backlog

LDEQ has committed to meeting the national goals for backlog reduction for 2004 (majors) and 2005 (minors). LDEQ updated the current Backlog Reduction Strategy to include backlog reduction as well as information as to how the state intends to attain self-sufficiency in drafting and issuing the requisite number of permits on a yearly basis to maintain an effective program. LDEQ is calling the document a Permit Issuance Strategy and sent the strategy to EPA on April 30, 2003.

VIII. General Permit Tracking

LDEQ uses its internal database to track general permits issued by Louisiana. Nation wide a unified database to track general permits issued by the states and EPA, is an ongoing challenge and has not been developed yet. Currently, LDEQ supplies EPA, on a quarterly basis, the numbers of facilities covered by general permits. This mechanism appears to work well in accurately identifying the number of facilities that are covered under LPDES general permits. Until there's a more efficient mechanism, EPA will continue to coordinate with LDEQ in obtaining this information.

FY'03 Status of General Permits

GENERAL PERMIT	# FACILITIES OF COVERED	EXPIRATION DATE	Status/Projected Reissuance or Effective Date
Multi-Sector Industrial (LAR050000)	846	04/30/06	*****
Construction Activities Industrial (LAR100000)	243	09/30/04	*****
Discharge Associated Industrial Activity(LAR000000)	131	09/09/97	
Class I Sanitary (LAG530000)	1039	11/18/02	Effective 12/15/02
Class II Sanitary (LAG540000)	950	08/27/02	Effective 1/1/03
Class III Sanitary (LAG560000)	187	08/27/02	Effective 2/1/03
Class IV Sanitary (LAG570000)	174	09/30/02	Effective 3/1/03
Offshore-O&G Ext-Territorial (LAG260000)	47	12/03/02	
Petroleum UST Cleanup(LAG830000)	125	12/14/02	EPA approved preliminary draft FY'02
Hydrostatic Test/Site -Specific (LAG670000)	35	02/22/03	EPA approved preliminary draft FY'02
Hydrostatic Test/State Wide(LAG679000)	78	02/22/03	
Ext Vehicle Wash Water (LAG750000)	368	06/30/03	Objection letter sent 5/03
Auto/Body Shop (LAG470000)	101	06/06/04	*****
Sand & Gravel (LAG490000)	16	09/06/04	*****
Cement/Concrete/Asphalt (LAG110000)	139	12/31/04	Objection letter sent 4/03
Underground Storage Tank Dewater (LAG309000)	23	12/31/04	*****
Potable Water (LAG380000)	40	01/13/05	*****
Treated Groundwater (LAG940000)	8	12/31/04	*****
Petroleum Storage and Transfer (LAG340000)	13	07/12/98	

CAFO (LAG010000)	3	03/09/98	
Coastal Drilling (LAG330000)	148	10/20/88	Effective 12/10/02
Private Domestic < 2500 gpd (LAG550200)	No NOI	08/31/94	draft midyear '03 (?)
O&G Extraction - Onshore (LAG320000)	No NOI	03/26/96	EPA seeking legal opinion
Produced Water/Sand- O&G Coastal (LAG290000)	No NOI	02/07/00	EPA seeking legal opinion
MS4 (small) LAR04		12/4/07	Effective 12/5/02

IX. PRETREATMENT PROGRAM

LDEQ operates an approved LPDES pretreatment program, conducts audits on at least 20% of the approved pretreatment programs and reports significant findings to EPA.

The Pretreatment Program audit reports completed for audits physically conducted during this period generally took much longer to finalize than is desirable. The desired nominal time frame from the date the physical audit is completed until the report is issued is 45 days. The lengths of time taken to finalize the 5 audits done within this time frame were: 3 months; 5 months; 6 months; 7 months; and 8 months. When this much time passes until the reports are issued, the POTWs may conclude that the importance of these activities is very low. LDEQ should streamline the process by which the Pretreatment Program Audit Reports are finalized so that the end product is issued within a more appropriate time frame (i.e.~ 45 days).

During past discussions, it has been emphasized that it is very important to incorporate newly approved or modified Pretreatment Programs into the NPDES permits so that they are enforceable by the Approval Authority (LDEQ). However, the Pretreatment Program that was approved for West Monroe in September 1999 has not yet been incorporated into their LPDES permit. The LPDES permit for West Monroe should be modified to incorporate the Pretreatment Program that was approved in September 1999.

A source of continued discussion deals with the Categorical Industrial Users (CIUs) discharging regulated process wastewater to POTWs without approved Pretreatment Programs. These CIUs have the potential for significant impact not only on those collection systems and treatment plants, but also to the receiving water bodies and the biosolids. Due to the concern about the potential discharges from these CIUs, EPA encourages the LDEQ to continue the efforts to define the universe of these IUs. Once this is accomplished, efforts should be made to verify that they are compliant with the applicable categorical standards. Reportedly, there is the authority to send these identified CIUs letters which would require them to report whether they

are compliant with the applicable standards. The possibility of conducting workshops for these CIUs has also been discussed.

The LDEQ Program Description stated that there were 4 positions in the Pretreatment Unit with 3.1 work years (or FTEs) devoted to Pretreatment activities. In the recently October 2002, Backlog Elimination Strategy, it stated that there were 3 FTE's dedicated to the Pretreatment Program. During our discussions, it became apparent that there were really only about 1.2 FTE's, at most, dedicated to the Pretreatment Program. EPA recommends that LDEQ increase the actual number of FTE's devoted to implementing the LDEQ Pretreatment Program to match that which was included in the delegation Program Description. While a number of the fundamental aspects of implementing the Pretreatment Program are done well by the LDEQ staff involved, there are other aspects that are lacking. The fact that certain actions are not accomplished indicates that the reduction in personnel resources from that which was indicated in the Program Description may well be the reason for the shortcomings.

Via the FY '01 program review, EPA requested that LDEQ provide the status on reporting/transmittal of quarterly information for the number of permits issued requiring the 1) development of pretreatment programs; 2) continued development of the complete pretreatment program; and 3) termination of the development of complete pretreatment programs. LDEQ provided the following response via the September 9, 2002 memo from Peggy Hatch, LDEQ to Doris White, EPA:

Currently, pretreatment personnel receive a copy of the final permits containing pretreatment requirements. Upon receipt of the permits containing pretreatment requirements, the activity dates are incorporated into an excel database and/or personnel calendars for tracking and notification of when the surveys and/or other documents are due. Pretreatment personnel will discuss tracking of pretreatment requirements contained in LPDES permits in PCS with PCU personnel and implement the necessary actions to ensure this activity occurs. LDEQ has received copies of the commonly used forms/documents from EPA that are used by that agency to reflect a pretreatment program modification and/or newly developed program. These documents will be modified for LDEQ's usage and incorporated into the permitting process to reflect approval of modifications/newly developed pretreatment programs into LPDES permits. LDEQ is exploring methods to verify that the discharge from Categorical Industrial Users (CIUs) located in and discharging into collection systems of non-pretreatment cities is in compliance with the applicable categorical standards. The most favorable method is notification of the industries via letter or other official Department documents of the self-implementing Pretreatment Standards for Existing and/or New Sources (PSES and/or PSNS) for indirect discharges and requiring a submittal to LDEQ and/or USEPA of the required semi-annual self-monitoring data of the industry's discharge. At a minimum, this will allow LDEQ to verify the compliance status of these industries and develop a tracking base of these industries. In addition to the EPA Regional Pretreatment Coordinator receiving a copy of all such written decisions currently made by the Department, LDEQ will strive to consistently use and submit to the EPA Regional Pretreatment Coordinator the quarterly reporting tables previously supplied.

X. RELATED PERMITTING PROGRAM ACTIVITIES

A. Public Participation Policy

Louisiana's Public Participation Policy is cited in their state regulations (that are also consistent with federal regulations) in LAC 33:IX chapter 23. The requirements outline the procedures and processes for public notices of permit actions and public comment periods. In addition LDEQ's responsibilities regarding public participation are cited in the Section III.L of the MOA [dated August 27, 1996, revised June 28, 2000]. Based on this section, permit applications, draft permits, public notices, fact sheets and/or statement of basis will be made available to any party upon request. It also states that "LDEQ will prepare and distribute copies of all public notices and fact sheets in accordance with federal regulations . . . and "All draft LPDES permits, major permit modifications, and pretreatment program approvals and modifications shall be public noticed in a daily or weekly newspaper within the area affected by the activity . . ."

EPA notes LDEQ's commitment and effort in administering the Public Participation Policy in accordance with federal regulations. After receipt of permit applications, local governing authorities are notified, and the administrative completeness of applications are publicly noticed. Draft permits are publicly noticed in local newspapers and are sent to interested parties listed on a mailing list. Public notices of permits and other pertinent documents are also placed on the state agency's web page. Copies of draft permits and other related documents such as fact sheets and/or statement of basis, are made available at the office of LDEQ. However, EPA remains concerned that retrieving permit information from LDEQ databases may not be reasonably available to the public.

LDEQ has implemented the Electronic Document Management System (EDMS), a web based internal search and retrieval system to aide in permit issuance, re-issuance and public review of permits at public notice. The EDMS remains problematic for public retrieval and review of LPDES permits & supporting materials. The database contains voluminous amounts of information and the poor indexing of materials and files containing misfiled information makes the system difficult for the public to use. Due to the poor indexing, misfilings, and voluminous amounts of information, it is difficult for the public to retrieve needed information. In checking the list of permit files for appropriate Pretreatment language, biomonitoring language or basic permit information, it is still unknown at this point, whether pertinent information is in the system or if the material is present in the system and just not easily accessed. LDEQ should provide technical and administrative assistance to the public on obtaining and interpreting the information found in the imaging system by providing written procedures and technical term descriptions to citizens and environmental groups, and any other interested parties. LDEQ's technical staff should be made available to assist the public in understanding technical terms, descriptions, diagrams, permit limits, and other information available to the public. Additionally, any Internet site created by LDEQ should also provide access information for the public.

As required by regulations, LDEQ continues to provide EPA with copies of public notices of permitting actions (i.e. permit issuances, comments on proposed permits, basis for decision on final permitting actions). These documents are reviewed for consistency and compliance of federal regulations.

B. Consultation with Federal and State Agencies

EPA notes LDEQ's coordination and consultation processes with the U.S. Fish & Wildlife Service and the State Historical Preservation Officer. Based on the Memorandum of Understanding between the agencies, LDEQ notifies and/or consults with the agencies to ensure that permit issuance and permitting actions do not have an adverse effect on endangered or threatened species and/or its habitat, or on sites or properties listed on the National Register of Historic Places. LDEQ had twenty-five (25) meetings with the U.S. Fish & Wildlife Service to discuss endangered species listings during FY'02.

C. Judicial/Administrative Actions Sent to EPA

To date no Judicial/Administrative actions have been sent to EPA during fiscal year 2003.

D. LPDES Permit Appeals

The following appeals await resolutions: GTX (former Marine Shale) LA0105988, Exide Corporation, LA0004464, Micro Chemical, LA0104027, Acadia Power, LA0112836, and Shintech. It was indicated at the 2001 end-of-year that a resolution for the appeal on Exide had been developed, and that a modified proposed permit would be submitted to EPA for review. To date the modified permit has not been submitted to EPA.

E. Public Hearing Held

A public hearing was held on October 10, 2002 for Bonnet Carre Power, LA0115665.

F. New Source Determination

New Source determinations are made by permit writer, during the development of the preliminary draft permit. There's no separate database at LDEQ that tracks facilities that are classified as a new source. EPA suggests that LDEQ begin tracking these facilities.

During fiscal year 2003, to date, LDEQ has not made a new source determination.

G. Variance Requests

LDEQ has not submitted any variances to the Agency for review during FY'03.

H. Interstate Issues

Georgia Pacific (AR0001201) is a paper mill facility located in Crossett, AR that discharges into Coffee creek (approximately four miles from the border of Louisiana). Water quality related issues (where should the standards apply?) have been ongoing for approximately ten years with this facility and still need to be resolved. A TMDL for dissolved oxygen, to determine the assimilation capacity of Coffee Creek has been developed and is undergoing review and approval process. EPA is encouraging Arkansas' Department of Environmental Quality to reissue the permit with a reopener clause to allow permit revision to include the results of the TMDL. The NPDES permit expired in 1991.

XI. CWA SECTION 405 SLUDGE PROGRAM

LDEQ believes that while there are definite benefits to assuming the sludge program, that it would be difficult to assume the program under current budget constraints. LDEQ has promulgated sludge regulations, but the regulations will not become effective until the state assumes the sludge program. LDEQ has completed the following steps toward program assumption:

- Preliminary draft of the sludge regulations for EPA's review and comment was submitted on September 7, 1999
- Draft sludge regulations were published in the Louisiana Register August 20, 1999
- Siting, Operations, and Financial Assurance for Commercial Blenders, Composters, and Mixers of Sewage Sludge were incorporated into the proposed regulations
- A review for correct citations, spelling, and grammatical errors, as well as fine tuning was completed
- LDEQ was to consult with outside agencies (i.e. LA Cooperative Extension Service, Department of Health and Hospitals, and LA Agricultural Experiment Station)

Below is a list of federal rules that were promulgated within previous years that will need to be adopted by LDEQ once the Sludge Program has been assumed.

- Standards for the Use and Disposal of Sewage Sludge; Final Rule; vol. 64, No. 149, pages 42551-42573; 8/4/99; 40 CFR § 403 and 503. ***LDEQ initially proposed to adopt the rule July 20, 2000.***
- National Pollutant Discharge Elimination System Permit Application Requirements for Publicly Owned Treatment Works and Other Treatment Works Treating Domestic Sewage; Final Rule; Vol 64, No. 149, pages 42433-42527, 8/4/99; 40 CFR § 9, 122, 123, 124, and 501. ***LDEQ initially proposed to adopt the rule December 2000.***

XII. EPA PERMIT REVIEW OVERSIGHT ACTIVITIES

A. Preliminary Draft Permits (Individual)

As of December 31, 2002, LDEQ issued 17 major individual permits and 58 minor individual permits.

B. Preliminary Draft Permits (General)

EPA reviewed and sent a no objection letters for Type I and/or II Subtitle D Landfills (LAG660000) and is currently reviewing the Exterior Car Wash (LAG750000) and Cement, Concrete, and Asphalt (LAG110000) general permits.

C. Major Discharger List

In accordance with Section III.P. of the Memorandum of Agreement, EPA is responsible for classifying those facilities which are identified as NPDES "major" dischargers. With assistance from LDEQ, EPA submits revisions for the reclassification of dischargers. The following facilities have been submitted for an upgrade/downgrade:

Major to Minor Downgrade

<u>NPDES NO.</u>	<u>FACILITY NAME</u>	<u>NEW RATING</u>
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None

Minor to Major Upgrade

<u>NPDES NO.</u>	<u>FACILITY NAME</u>	<u>NEW RATING</u>
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_____None

Upgrades/downgrades are done by EPA headquarters once a year (usually the month of September).

XIII. EPA DIRECT PERMITTING ACTIVITIES

In accordance with Section II.C.1 of the MOA, EPA retains permit decision-making authority over permits which were at public notice at the time of authorization and for permits which received variance and evidentiary hearing request that have not been resolved. At the end of fiscal year FY99, there were a total of fourteen (14) permits with outstanding evidentiary hearing request and four (4) variances still pending. However, in accordance with federal regulations cited at 40 CFR § 124.60(b), "the Regional Administrator, at any time prior to the rendering of an initial decision in a formal hearing on a permit, may withdraw the permit and prepare a new draft under 40 CFR § 124.6 addressing the portions so withdrawn." Therefore for those evidentiary hearing requests where there were no final decisions made, EPA withdrew its decision on the issuance of the permits, via public notice, May 12, 2000. These permits were issued, but never became effective. The files and permitting authority were transferred to LDEQ.

Table III below gives a brief description of the status of the evidentiary hearings and variances. There are now a total of six (6) permits with outstanding evidentiary hearings and two variances requests.

Evidentiary Hearings In Louisiana (6)

NPDES Permit No.	Facility	Permit Writer	Status
LA0000841	Exxon Chem. (Resin Plant)	Kilty Baskin	Public Notice by LDEQ on 2/25/02
LA0005355	Exxon Chem. (Plastics Plant)	Brian DeLong	Being drafted by LDEQ
LA0005401	Exxon Chem (Baton Rouge)	Kilty Baskin	Being drafted by EPA
LA0006009	Ashland Chemicals	Bruce Fielding	Being drafted by LDEQ.
LA0007617	Riverwood International	Christy Rogers	Being drafted by LDEQ.
LA0038741	City of Monroe	Ronnie Bean	Permit authority transferred to LDEQ.
VARIANCES (2)			
LA0000191	Union Carbide	Ed Mcham	Permit authority transferred to LDEQ.
LA0000752	Uniroyal Chemical	Ken Huffman	Being drafted by LDEQ.

XIV. EPA REVIEW OF LPDES PERMIT FILES

A. Administrative File Review/Audit

LaGayla Bradley and Dorothy Brown of the Customer Service Branch, Water Quality Protection Division, conducted review of LDEQ files using the Agency's Permit Review Checklist to determine if the files contained the material cited in 40 CFR Part 124 as "applicable to State programs." The permit files on major and minor municipal and industrial facilities were examined to determine if they contained the materials which would constitute an administrative record. Files and document dates were compared with current PCS information. Deficiencies were found in the EDMS. The EDMS was too cumbersome to complete the file review, because documents were not correctly indexed. These deficiencies were brought to the attention of the LDEQ file room staff. The LDEQ staff was very helpful in assisting EPA with their EDMS and ALPS systems.

There was considerable discussion on coding data into PCS. EPA furnished LDEQ staff with "Critical Date Check" and "Blank Facility/Permit Information" reports which are pulled from PCS. The State has agreed to make the PCS corrections, to add the missing facility information as indicated by the reports and to code missing data in a timely and accurate manner. EPA will

continue to assist LDEQ staff by inputting missing facility data into PCS when requested and EPA will continue to pull reports periodically to make sure that data is being coded into PCS.

I. File Review:

Missing Documents

LA0053147	Dularge Packing Company - Draft/Final Permit, Statement of Basis/Fact Sheet, Public Comment Letter
LA0116548	La Broilers, Inc. - Draft/Final Permit, Statement of Basis/Fact Sheet, Public Comment Letter
LA0116459	Bertucci Industries Service - Draft/Final Permit, Statement of Basis/Fact Sheet, Public Comment Letter
LA0116475	Port Ship Services, Inc. - Draft/Final Permit, Statement of Basis/Fact Sheet, Public Comment Letter
LA0038822	Grambling Town of - Statement of Basis/Fact Sheet, Public Comment Letter
LA0053708	Air Liquid Americas - Final Permit, Statement of Basis/Fact Sheet, Public Comment Letter
LA0068012	La Salle Parish Sanitary - Application, Draft/Final Permit, Statement of Basis/Fact Sheet, Public Comment Letter
LA0036366	City of Lake Charles - Public Comment Letter
LA0096296	Air Liquid America Corp. - Final/Draft Permit, Statement of Basis/Fact Sheet, Public Comment Letter
LA0116521	Clayton Williams Energy Inc. - Draft/Final Permit
LA0069256	Tulane Fleeting Inc. - Draft/Final Permit
LA0088609	Tulane Fleeting Inc. - Draft/Final Permit
LA0105431	Lincoln PH Police Jury - Final Permit

Complete File

LA0059030	Entergy Gulf States
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Recommendations:

In accordance with the commitments contained in the Memorandum of Agreement between EPA and LDEQ, PCS serves as the National database to access data in order to accurately assess a program's effectiveness. LDEQ should develop a comprehensive quality control/assurance plan that will ensure that the information in PCS is timely, accurate, and complete, and in accordance with any national policy statements related to the national data system. For permit issuance data, LDEQ should commit to input all appropriate application/permit data older than 60 days into PCS for major and minor facilities and by the end of the 2003 year calendar input all appropriate PCS data entry. Thereafter, all permit/application data should continue to be entered into PCS no later than 30 days from receipt of data information.

A. Whole Effluent Toxicity File Review/Audit

The LDEQ Whole Effluent Toxicity 2003 midyear program review was not conducted due to the inability to identify relevant documents in the EDMS.

XV. CALCASIEU PARISH

Calcasieu Parish and the Mossville area, has become, for several years, a multi-media environmental initiative. In response to preliminary results and a report of an Exposure Investigation conducted by the Agency of Toxic Substances and Disease Registry (ASTDR) that may suggest elevated levels of dioxin in blood samples of residents in Mossville, the Regional office in conjunction with state and local agencies and environmental groups has committed to assessing the potential sources of dioxin exposure. EPA, NPDES permits branch has committed to work with LDEQ in addressing a component of this issue. EPA asked that LDEQ obtain information/data from point source dischargers that may have the potential of producing and thus discharging dioxin into the surface waters [letter from Ferguson (EPA) to Higgins (LDEQ) dated December 22, 2000]. On June 26, 2001, LDEQ sent letters to eleven (11) facilities requesting that beginning July 2001 at a rate of once (1) per month for four months, that their wastewater outfalls be sampled for dioxin and dioxin-like compounds/congeners. A request was not made of Westlake Vinyl Corp. (LA0099791) because the facility is under construction. Requests were made of the following facilities:

Westlake Petrochemicals (LA0082511)
Westlake Styrene (LA0087157)
Citgo Petroleum Corp. (LA0005941)
Lyondell Corporation (LA0005347)
Conoco, Inc. (LA0003026)
Condea Vista Co. (LA0003336)
PPG Industries Inc. (LA0000761)
Equistar Chemicals. (LA0069850)
Entergy (LA0059030)
Certainteed Corp. (LA0041025)
Louisiana Pigments (LA0080829)

On July 27, 2001, LDEQ sent an additional letter to the above mentioned facilities advising them that the July start date sampling was infeasible because additional information would be needed to develop a Quality Assurance Project Plan (QAPP) for the sampling, analytical, assessment and reporting activities. The letter further asked the facilities to list all non-stormwater outfalls and indicate which outfalls would be included in the sampling efforts and a justifications as to why an outfall would be excluded. The facilities were also asked to provide comments on the draft QAPP and informed that they could only use labs certified by the Louisiana Environmental Laboratory Accreditation Program.

EPA was informed in November 2002, that sampling had been completed and that initial results using EPA Method 1613 indicate that four facilities have dioxin in their effluent. EPA requested copies of the reports which have not been received to date. EPA requests that LDEQ

provide copies of the results of the dioxin testing on the eleven facilities to EPA with 30 days of receipt of this correspondence.

Due to the overall environmental concern for this basin EPA continues to strongly recommend that LDEQ make the re-issuance of permits within the parish a top priority. Based on PCS database, there are approximately twenty-four (24) major and 160 minor point source dischargers in the Calcasieu Parish of which approximately 58% of the majors have expired permits and 88% of the minors have no data or permit issuance status. The Calcasieu river basin is also on the 303(d) list for impairment due to toxic pollutants. TMDLs for segments of the basin were published in Volume 67, Number 114, pages 40735 - 40737 (6/13/2002) of the Federal Register.

XVI. CONCLUSION/RECOMMENDATIONS:

EPA will continue to encourage and emphasize the importance of addressing the LPDES permits backlog and productivity. We re-emphasize and recommend that LDEQ focus more strongly on the issuance of major permits and to aggressively acquire other mechanisms to issue permits and address the backlog. More specifically EPA emphasizes the importance of issuing a minimum of 20% of the universe and hopes that LDEQ continues to seek contract assistance (i.e., In-Kind assistance, Providence and SAIC. EPA also encourages LDEQ to continue in their efforts in drafting and issuance of general permits, that results in the decrease of minor permits. EPA will continue to work with LDEQ on any technical assistance that we may provide in NPDES permit writing and in addressing permitting complex issues (i.e impaired waterbodies/TMDLs).

Additionally, EPA requests the following by the date indicated:

- By September 1, 2003, LDEQ should submit to EPA for review and comment drafts of revisions to all program authorization documents. These revisions should include all program changes implemented since the date of program approval, including any changes to the State's legal authorities including providing clarification on the actual number of FTE's devoted to the pretreatment program. Further, LDEQ should insure that adequate resources are available for this program.
- For permit issuance data , LDEQ should commit to input all appropriate application/permit data older than 60 days into PCS for major and minor facilities along with all appropriate PCS data entries by December 31, 2003. Thereafter, all permit/application data should continue to be entered into PCS no later than 30 days from receipt of data information.
- EPA requests that LDEQ provide copies of the results of the dioxin testing on the eleven facilities discharging to the Calcasieu to EPA on or before September 15, 2003.
- LDEQ should provide technical and administrative assistance to the public on obtaining and interpreting the information found in the imaging system by providing written procedures and technical term descriptions to citizens and environmental groups, and any other interested parties. LDEQ's technical staff should be made available to assist the public in understanding technical terms, descriptions, diagrams, permit limits, and other information

available to the public. Additionally, any Internet site created by LDEQ should also provide access information for the public. *(Addendum: On June 24, 2003, LDEQ submitted a draft plan to EPA indicating how it will improve public access to LDEQ files. EPA is reviewing the document).*